

Governor's Dry Cleaner Council  
Meeting Notes  
DNR Waukesha Service Center  
April 28, 2006  
9:30 a.m. – 2:30 p.m.

Attending:

Governor's Council

Steve Plater, Chair  
Rich Klinke  
Jeanne Tarvin  
Jim Fitzgerald  
Jill Fitzgerald  
Kevin Braden

DNR

Mark Giesfeldt  
Terry Evanson  
Jeff Soellner  
Edwina Kavanaugh  
Pat McCutcheon

WI Fabricare Institute

Brian Swingle

Reinhart-Boerner

Don Gallo

**Welcome Kevin Braden** – Kevin has recently been appointed to the Council and represents the wholesale distributors of dry cleaning solvent.

**Review of funding status for DERF:** Jeff Soellner

Jeff has a record number of DERF claim requests this year, with 58 to date. There are almost 130 dry cleaner sites in the program. This fiscal year (FY06), the DNR has \$2.6 million in spending authority for DERF. Total claims in the year (July 1 – April, 2006) are \$2,156,298, leaving a fund balance of \$443,702 currently, but he knows of at least an additional \$200K still coming soon. There is still 1 quarter left for this year, so the carryover to next year is not known. We expect that demand will continue at the pace we've seen. We currently estimate that the spending authority for FY07 (\$1,050,000) will be expended by January 2007. The Excel spreadsheets with these projections are attached to these notes.

**Future Funding of DERF:** Mark Giesfeldt

We project a significant budget shortfall about halfway through FY07, 6 months before the biennial budget is expected to be passed by the legislature. The question is what can be done to address the budget crisis in the long and short term.

The universe of dry cleaning sites was discussed – there are historic dry cleaner sites that are currently ineligible for DERF (due to no eligible applicant) and those sites that will become ineligible because the owners miss the August 2008 deadline for application. Dry cleaners would like to see the program expanded. Fee collection is authorized until 2032. Without DERF, ineligible sites must go through the NR 700 process. When DERF was authorized, it was projected that 300 sites would enter the program.

The Council believes that if it is important to the State to cleanup up dry cleaner sites that the State should contribute to the cleanup costs. If the State won't help fund the cleanups, the program is likely to die. Issues brought up included:

- If the universe of dry cleaning sites needing cleanup is acknowledged, the legislature may have more information for funding additional cleanup.
- Health risk issues and importance of addressing PCE
- The impact ending DERF would have on other State cleanup programs
- License fee collection and a continued, reliable revenue source

- Cost controls, including consistency between DNR regions and DNR flexibility in monitoring and site investigation requirements. Mark Giesfeldt said he would follow up on specific site concerns. DNR tries to be flexible and cost effective in managing site cleanups. The DNR closure process was discussed, including the opportunity to appeal decisions.

#### DC Fees and additional State Funding

The consensus of the Council was:

1. Dry cleaners will support a fee increase to 2.3% (an increase of 0.5% from the current 1.8%) **IF** the State will commit to provide matching funds equal to the 2.3%. Jeff estimates that 2.3% fee on gross dry cleaning receipts will generate approximately \$1.34 million in reimbursement funds. A State match would provide a total of \$2.68 million/year.
2. Dry cleaners want the deadline for entering the program extended until 2032 and
3. Dry cleaners want an increase in spending authority for to the \$2.68 million/year.
4. Dry cleaners would support enlarging the program to include currently ineligible, historical dry cleaners if the program deadline is extended and the additional funding can be secured.

#### Source of State DERF matching funds

Discussion focused on proposing a transfer of funds or a loan of funds from PECFA. We discussed options of annual State funding of \$1.34 million versus a one-time funding of \$8.5 million into a revolving loan fund to support DERF reimbursements (where DERF fees would repay the revolving fund). Council members want to know what support DNR needs for proposing a loan or fund transfer of \$1.34 million. The Council will work with their legislators and DNR will work through the budget process currently underway.

DNR will revise the briefing paper by May 12 to include the recommendations of the Council.

#### **Potential NR 749 Fees:** Mark Giesfeldt

This discussion centered on charging NR 749 fees to dry cleaners who request additional DNR services beyond those routinely provided in an NR 700 cleanup. These additional services include such things as hazardous waste determinations and face-to-face technical meetings. DERF provides 2 FTE to the DNR for technical oversight of cleanups and DNR is currently providing 2.5 FTE of service. The Council recognizes that this proposal is in lieu of the DNR seeking additional FTE support from DERF. The Council agreed to the additional charges, but don't want these interpreted as increased fees to the dry cleaners. The DNR will make it clear when such services are requested that an additional, non-reimbursable cost will be incurred.

DNR does not know if this approach will reduce the FTE demand by DERF. This will be monitored. However, it is clear that as more sites enter the program, more staff time is needed to support review & oversight of cleanups.

#### **Proposed Rule Language Changes:** Terry Evanson

We reviewed the proposed rule changes to NR 169.13(2)(f) and the additions of subdiv. 3. Wording changes agreed to are reflected in the attachment to these notes.

**Statutory Changes to DERP (ch. 292.65):** Edwina Kavanaugh

**Agent Agreements and Death of Dry Cleaners (ch 265.65(4)(k):**

Issues surrounding agent agreements and their applicability beyond the death of the principal (the dry cleaner) have been discussed in the DNR. We discussed a document written by Edwina giving her interpretation of the law surrounding agents and agent agreements. It was agreed by the Council that statutory language should be proposed stating that agent agreements continue to be effective after the death of an applicant. Edwina will draft statutory language to this effect.

**Payment of Fees by Dry Cleaners (ch. 292.65(8)(d)7**

Several dry cleaners have applied for reimbursement of cleanup costs only to find that the dry cleaning fees due on the dry cleaner business are not up-to-date. The statute requires that the DNR shall deny application for reimbursement if “all fees . . . due . . . have not been paid”. These situations often involve an applicant who has sold his/her business to another dry cleaner operator. The concern by the Council is that the applicant can’t force the current owner pay the fees. We discussed the implications of changing this statute on overall fee payment by dry cleaners. It was the consensus of the Council to leave the wording as it stands.

**5 year Program Report to the Legislature:** Terry Evanson

The 5-year program report to the legislature is due the end of 2006. It was recommended that the following issues be included in the report:

- a list of Dept. of Revenue (DOR) issues that need follow-up to improve fee collection
- the need for DOR to make the list of dry cleaners in the State available to the Council. The Council can identify those dry cleaners not paying fees.
- Physical location of the dry cleaner should be on the license (it currently is not)
- The license number and physical location of all dry cleaners should be publicly available.

**Next Meeting: July 27 (Thursday) at Lapham Peak State Park**

Issues to discuss:

- updated DERF Sustainability Issue Paper
- DNR’s budget recommendations

**Attachments:**

Agenda

Dry Cleaner Fund Update for 4/28/2006

Draft Issue Paper: Sustainability of the Dry Cleaner Environmental Response Fund, including 4 table attachments

Issue paper on Dry Cleaner Fee Issue

Draft language changes to NR 169.05 and NR 169.13

Summary of DERF cleanups by an Agent